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In the Supreme Court of the  
United States

OCTOBER TERM, 1942

No. **130**

KHARATI RAM SAMRAS,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

Petition for Writ of Certiorari to the United States  
Circuit Court of Appeals for the Ninth Circuit  
and  
Brief in Support Thereof.

ERNEST B. D. SPADNOR,

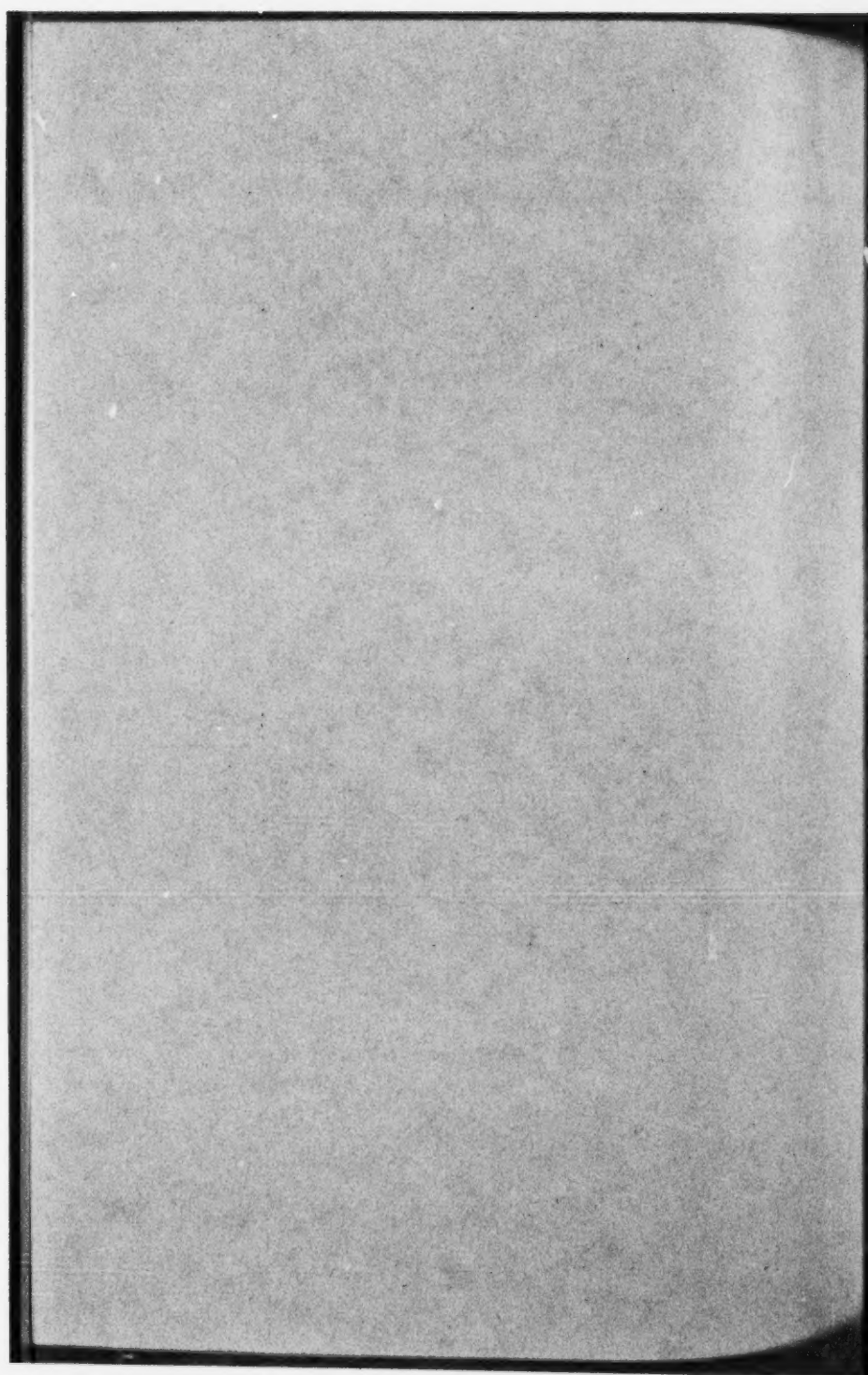
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No. ....

KHARAITI RAM SAMRAS,

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v.

UNITED STATES OF AMERICA,

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Petition for Writ of Certiorari to the United States  
Circuit Court of Appeals for the Ninth Circuit

*To the Honorable Harlan Fiske Stone, Chief Justice  
of the United States, and to the Associate Justices  
of the Supreme Court of the United States:*

MAY IT PLEASE THE COURT:

The petition of Kharaiti Ram Samras, respectfully  
shows to this Honorable Court:

A.

**SUMMARY STATEMENT OF MATTER INVOLVED.**

The petitioner, Kharaiti Ram Samras, is of the  
East Indian race (Hindu), and was born in Manko,

India, on December 4, 1904 (R. 2). He was lawfully admitted into the United States for permanent residence on May 1, 1923 (R. 2). He filed his declaration of intention to become a citizen of the United States on August 12, 1937, in the District Court of the United States, at San Francisco, California. On the 15th day of August, 1940, petitioner filed his petition for naturalization, together with his certificate of arrival and the affidavits of the two verifying witnesses required by law, in the office of the Clerk of the United States District Court at San Francisco, California (R. 1-6). On December 23, 1940, a naturalization examiner designated to conduct preliminary hearings on such petitions pursuant to 8 U. S. C. A. Sec. 733, recommended that appellant's petition (petitioner herein) be denied on the ground that he "is not a person of the White Race or of African nativity or descent, and therefore is not eligible to naturalization." The order denying the petition was entered on December 27, 1940, "on the ground of racial ineligibility." The appeal was then taken.

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B.

**REASONS RELIED ON FOR ALLOWANCE OF THE WRIT.**

The petitioner believes that the reasons why this Honorable Court should grant this petition are:

1. That the point decided by the honorable Circuit Court of Appeals to the effect that the power over naturalization, although *expressly* given to Congress



by the Constitution, is similar to the inherent power of Congress over the exclusion and deportation of aliens, and regarding the latter, the power is *political*, and the exercise thereof cannot be challenged in the courts; and no less reason exists for saying that the power over naturalization is *political* also. This question has never been decided before. A decision by the United States Supreme Court on this point would be far reaching and of national importance. This is sufficient to, and demands, the allowance of the writ of certiorari.

2. That the point decided by the honorable Circuit Court of Appeals to the effect that the provision in the Constitution empowering Congress to establish an "uniform rule of naturalization" relates to geographical uniformity only, and not to intrinsic uniformity; was wrongly decided, and this question has never been decided before.

3. That the point decided by the honorable Circuit Court of Appeals to the effect that Section 2169 was enacted in conformity to Article 1, Section 8, Clause 18, of the Constitution, and, therefore, was germane to the end to be accomplished, has never been decided before. This is sufficient to, and demands, the allowance of the writ of certiorari.

4. That the point decided by the honorable Circuit Court of Appeals to the effect that "life" and "liberty" mentioned in the Fifth Amendment *were not involved* in the instant case is entirely wrong inasmuch as naturalization, with its concomitant rights

to suffrage, property ownership, right to hold office, etc., is involved in the concept of "liberty".

5. That the honorable Circuit Court of Appeals failed to mention your petitioner's main contention, namely, that Section 2169 of the United States Statutes is unconstitutional and void because of the fact that it permits and allows *negro* immigrants from Africa, otherwise qualified, to become naturalized citizens of the United States, and denies naturalization to aliens of the brown or yellow races; and, therefore, is manifestly and grossly unreasonable, irrational, illogical, arbitrary, capricious and a discriminatory classification solely based on race and color.

6. That the point decided by the honorable Circuit Court of Appeals to the effect that the petitioner herein is not a free white person within the meaning of the statute, 8 U. S. C. A. Section 703 note, and in view of the decision of the United States Supreme Court in the case of *United States v. Bhagat Singh Thind*, 261 U. S. 204, 43 S. Ct. 338, 67 L. Ed. 616, erroneous because this case should be reconsidered and overruled.

7. That the decision of the United States Circuit Court of Appeals rendered in the instant case is in irreconcilable conflict with the decision rendered by the United States Circuit Court of Appeals for the Fourth Circuit in the very recent case of *Alston v. School Board of City of Norfolk*, 112 Fed.(2d) 992, 130 A. L. R. 1512, certiorari denied by Supreme Court.

Wherefore, your petitioner respectfully prays that a writ of certiorari be issued out of and under the seal of this honorable Court, directed to the United States Circuit Court of Appeals for the Ninth Circuit, commanding that court to certify and send to this Court for its review and determination, on a day certain to be therein named, a full and complete transcript of the record and all proceedings in the case numbered and entitled on its docket, No. 9831, Kharaiti Ram Samras v. United States of America, Appellee, and that the said judgment of the United States Circuit Court of Appeals, Ninth Circuit, may be reversed by this honorable Court, and that your petitioner may have such other and further relief in the premises as to this honorable Court may seem meet and just; and your petitioner will ever pray.

Dated, San Francisco, California, May 14th, 1942.

ERNEST B. D. SPAGNOLI,  
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WALTER F. LYNCH,  
*Of Counsel for Petitioner.*